

**UNAPPROVED MINUTES  
CITY OF MILPITAS**

Minutes:	Regular Meeting of Milpitas City Council (Including Joint Meeting with Redevelopment Agency)
Date of Meeting:	October 21, 2003
Time of Meeting:	5:30 p.m. (Closed Session) 7:00 p.m. (Regular Session)
Place of Meeting:	City Hall Council Chambers, 455 E. Calaveras Blvd.

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**ROLL CALL**

Vice Mayor Dixon called to order the regular meeting of the Milpitas City Council at 5:34 p.m. Present were Vice Mayor Dixon and Councilmembers Gomez and Polanski. Mayor Esteves arrived at 5:36 p.m. and Councilmember Livengood arrived at 6:00 p.m.

**CLOSED SESSION**

Vice Mayor Dixon publicly stated the Council would convene in Closed Session to discuss the following item listed on the agenda:

1. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
(Pursuant to Government Code Section 54956.9[c])  
Initiation of Litigation: One Case

Vice Mayor Dixon adjourned the meeting to closed session at 5:34 p.m.

The City Council meeting reconvened at 7:03 p.m. with Mayor Esteves presiding and Vice Mayor Dixon and Councilmembers Gomez, Livengood, and Polanski present.

**CLOSED SESSION  
ANNOUNCEMENTS**

There were no closed session announcements.

**PLEDGE**

Members of Troop No. 92 led the Council and audience in the Pledge of Allegiance.

**MINUTES**

MOTION to approve the City Council minutes of October 7, 2003, including joint meeting with the Redevelopment Agency, as submitted.

M/S: Dixon, Polanski.

Ayes: 5

**SCHEDULE**

Vice Mayor Dixon reported the October 29 meeting of the Silicon Valley Rapid Transit PAB has been postponed; a special meeting of the VTA Ad Hoc Committee to discuss the Milpitas request and the regular meeting of the VTA Board were scheduled for 4:00 p.m., November 6; on November 7 at 8:30 a.m. a special VTA workshop was scheduled; and another meeting of the BART/VTA Policy Advisory Board was scheduled for November 14 but was also being postponed.

Councilmember Polanski noted that November 27 was Thanksgiving Day and she assumed the meetings shown on the calendar for that date would be re-scheduled.

MOTION to approve the Schedule of Meetings as amended.

M/S: Gomez, Polanski.

Ayes: 5

**PRESENTATIONS**

There were no presentations.

**CITIZENS FORUM**

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda, requesting that remarks, including any visual or technology-assisted presentations of any kind, be limited to two minutes or less, and noted that the City Clerk would be using the timer and when the red light at the podium came on, two minutes would be up.

Linda Arbaugh, Community Library Supervisor, commented that Milpitas was one of eight libraries that comprise the Santa Clara County Library system and she was proud and happy to announce that the Santa Clara County Library system was named Number 1 among all the libraries that serve between 250,000 to 500,000 people for the third time in a row. Ms. Arbaugh said this was a national ranking recognized by the National Library Association, it was quite an honor for the Milpitas Library and the Santa Clara County Library system as 9,000 libraries across the country were evaluated.

Art Swanson commented that if anyone was interested in how the State budget was going to be accomplished, he suggested they listen to KGO radio on the weekends and radio 9/10 on workdays. Mr. Swanson said it would be refreshing to see what people can do when they are drawn into a problem.

Jessica Hymes, President, Milpitas High PTSA, invited everyone to attend a dance they were hosting called "BLAST from the Past" on November 15, 7:00 p.m. to 11:00 p.m. at the High School, tickets are \$10.00, and the proceeds would go to the Milpitas High School Scholarship Fund.

## ANNOUNCEMENTS

Councilmember Polanski thanked the members of the CAC, Gloria Anaya, and staff who attended the third annual Town Hall meeting, commenting that there was a good discussion and a lot of information made available to the community. Councilmember Polanski said she had the opportunity to attend a "Girls for a Change" event called "BARE" at Rancho Middle School, along with Vice Mayor Dixon; she was the guest speaker on October 16 for the AP Government classes and talked about city, state, and school district governments; with the members of the Council, she attended the Homecoming football game last Friday night, which was a lot of fun and a wonderful achievement for the entire community to be able to now attend games at the High School; and the end of September she and Vice Mayor Dixon attended a new teacher reception sponsored by the Chamber of Commerce.

Vice Mayor Dixon thanked the Kiwanis and Booster Clubs and everybody involved over the years working on the Bond improvements for school facilities and encouraged everyone to attend a home football game. Vice Mayor Dixon advised the Council that the VTA Policy Advisory Committee discussed the request from Milpitas to restructure the VTA Board; the dialogue was so intense that they decided to extend the discussion to the next meeting; and more letters of appreciation for Milpitas opening the door for the dialogue had been received. Vice Mayor Dixon acknowledged BTAC for hosting a joint meeting with Fremont's recently formed Bicycle Transportation Commission, partnerships were discussed along with ways of opening up the boundaries between Fremont and Milpitas for pedestrians and people who like to bicycle. Vice Mayor Dixon said a lot of people have come up to her recently saying they heard she was moving out of town and she wanted to set the record straight that she was not moving, she was not selling her house, and she will be running again for her final term on the Council.

Councilmember Gomez announced that last week he attended a walk to end domestic violence, the purpose of the walk was to remember all the victims who had passed away from domestic violence in the last 12 months and to educate people about domestic violence, which was important to him because three of the past 12 homicides occurred in Milpitas; it was well attended and he was glad to see so many people from Milpitas participating, and thanked San Jose Vice Mayor Pat Dando for putting together the event that included participation from the 14 surrounding cities. Councilmember Gomez further announced there would be a Breast Cancer Awareness Walk on October 26 in San Francisco and one Milpitas recreation employee, Lisa Weisgerber, would be participating.

Mayor Esteves congratulated the Spring Valley Church on celebrating 30 years; thanked the City of Milpitas Housing and Neighborhood Preservation Division for hosting the Northern California Anti-Graffiti and Litter Task Force meeting and for inviting him to give the opening speech.

## AGENDA

MOTION to approve the agenda as submitted.

M/S: Polanski, Gomez.

Ayes: 5

## CONSENT CALENDAR

Mayor Esteves inquired if anyone wished to make any changes to the Consent Calendar. City Manager Thomas Wilson commented that item 16 was shown on Consent in one place and not in the other and clarified that it was not intended to be on the Consent Calendar.

Councilmember Livengood asked that item 6 be removed for discussion; Councilmember Gomez requested item 10 be removed for discussion.

MOTION to approve the Consent Calendar, items with asterisks on the agenda, as amended by the removal of items 6 and 10, in accordance with the staff recommendations.

M/S: Polanski, Gomez.

Ayes: 5

### **\*5. Historical Book Project 50<sup>th</sup> Anniversary**

1. Approved a budget appropriation of \$43,900 from unallocated reserves to the City Council's Community Promotion budget to fund the Historical Book project; and,
2. Authorized the City Manager to execute the consultant agreement with the Milpitas Post subject to approval as to form by the City Attorney.

### **\*11. Youth Sports Grant**

Approved one Individual Youth Sports Assistance grant in the amount of \$500 for Eric Armes and one organizational grant for the Milpitas Red Devils in the amount of \$1,000 as recommended by the Parks, Recreation and Cultural Resources Commission leaving a balance of \$3,050 for the remainder of the fiscal year.

### **\*12. Spare the Air Days**

Authorized the execution of the Clean Air Consortium Voluntary Spare the Air Day Agreement.

### **\*13. Adopt Traffic Ordinance No. 43.199**

Waived full reading of the ordinance, and adopted Ordinance No. 43.199 amending Chapter 100, Title V (Traffic) of the Milpitas Municipal Code.

### **\*14. Wells Fargo Bank, N.A.**

1. Adopted Resolution No. 7354 authorizing use of facsimile and/or logo signatures in relation to deposit accounts.
2. Approved the agreements with Wells Fargo Bank, N.A. to provide banking services, subject to approval as to form by the City Attorney.

### **\*15. Curtis Park Well Upgrade (Project No. 7076)**

Adopted Resolution No. 7355 granting initial acceptance, subject to a one-year warranty period and reducing the faithful performance bond to \$40,131.50.

### **\*17. Interim Senior Center (Project No. 8151)**

Approved Contract Change Orders totaling \$30,000 for the Interim Senior Center (Project No. 8151) as described in the staff report.

### **\*18. Comcast Franchise**

Adopted Resolution No. 7356 authorizing a six-month extension to the existing franchise agreement to allow for the completion of the franchise fee audit and franchise renegotiation.

### **\*19. Wireless Networking Equipment**

Approved the purchase of wireless networking equipment from Tropos Networks in an amount not to exceed \$23,815.

### **\*20. Police Motorcycle**

Awarded the bid for the purchase of the replacement motorcycle to the lowest bidder, Hayward Kawasaki in the amount of \$9,466.46.

**\*21.  
Miscellaneous Vendors**

Approved the following purchase requests:

1. \$6,004.08 to Cal Tech Auto Body, for the repair of the rear end body of Ford Ranger pick-up damaged in vehicle accident. (Funds are available from the Fleet Maintenance operating budget for this service.)
2. \$9,090.58 to Cal Tech Auto Body, for the repair of damages to Crown Victoria due to collision. (Funds are available from the Fleet Maintenance operating budget for this service.)
3. \$7,509.25 to Preston Pipe Lines, for the emergency repair of water main at Calaveras Blvd. and Hillview Drive. (Funds are available from the Public Works operating budget for this purchase.)

**\*22.  
Payroll Registers**

Approved the Payroll Registers for the periods ending September 20, 2003 in the amount of \$1,670,461.76, and October 4, 2003, in the amount of \$1,616,459.03.

**PUBLIC HEARINGS**

**1.  
Fire Department Fees**

Fire Marshal Patti Joki reported that periodically staff analyzes adjustments to fee rates in order to maintain a level of cost recovery for services to businesses that conduct regulated activities; the most recent adjustment was made eight years ago; and in order to reduce the cost of General Fund subsidy of Fire Department programs, the following changes were proposed: (1) Adjust fee rates by \$12 to achieve an average amount charged by surrounding fire jurisdictions for similar types of services; (2) Streamline the fee process by reducing multiple invoices; and (3) implement fees for services that had not previously been charged for. Ms. Joki, using a PowerPoint presentation, displayed a bar graph showing the current General Fund subsidy of \$46, and stated the proposed \$12 fee rate adjustment would reduce the General Fund subsidy to \$34; in addition, Ms. Joki showed charts comparing proposed and current rates for similar types of service with the average of that charged by surrounding jurisdictions.

Ms. Joki further reported that the Fire Department also performs activities not of a routine type nature and for which there was no current cost recovery and presented a slide showing current activities and identifying two new programs to be implemented. Ms. Joki noted the proposed changes had been reviewed with the Chamber of Commerce Board of Directors as the business community's representative for input and feedback, and the results were included in the staff report. Ms. Joki reported that staff was recommending adjusting the standard fee rate by \$12, reducing multiple invoices, implementing fees for services not previously covered, and adopting a resolution adjusting Fire Department fees for regulated activities as specified in the proposed fee schedule.

Vice Mayor Dixon, referring to the comparison with surrounding jurisdictions, inquired if staff also surveyed to see when those particular cities had last updated their rates and the manner in which other cities charged fees. Ms. Joki responded attachment 2 at the top indicated the year in which the fees were last adjusted. Vice Mayor Dixon further inquired if this was due to the salary range of the Fire Department (to recoup the fully burdened rate). Ms. Joki responded staff had not looked at what was included to make up the rate; different cities charge differently and some charge by applications while others charge by inspection time. Vice Mayor Dixon commented that from her perspective, this has been an area of frustration for the Fire Department for the amount of overtime they were putting out and the City should be recovering more; she agreed in concept with the report.

Councilmember Livengood inquired what was the bottom line on this – if approved, how much extra revenue would be generated. Ms. Joki responded it would be approximately \$98,000 for one year. Councilmember Livengood said he had a problem with the timing because the Milpitas business community was in the midst of a very difficult recession and while it wasn't a lot of money, it would add a burden on the business community; and he

would prefer to see the fee revision come back in the future when the economy was not in the state it was now.

Mayor Esteves inquired what would be the yearly gross impact to a small business. Ms. Joki explained it would depend upon what regulated activity they were conducting (i.e., if a small business had hazardous materials, the increase would be approximately \$24 a year). Mayor Esteves inquired as to the cost to a business that did not have hazardous materials. Ms. Joki explained that if the business did not conduct an activity that was regulated by the Fire Code or the Health & Safety Code, staff performed inspections at the Engine Company level, which were yearly inspections not charged for (such as delicatessens, some restaurants, and shopping centers) unless they did not comply. Mayor Esteves inquired if the \$98,000 figure was solely due to rate adjustments or did it include the benefit of revising the collection process. Ms. Joki responded it was purely from the increase; approximately \$60,000 was to implement two State-mandated programs and approximately \$38,000 would be attributed to the fee increases. Mayor Esteves said he didn't have a problem with the increases because they were minimal and hadn't been adjusted for eight years.

Vice Mayor Dixon shared the difficulty the VTA Board experienced with fare box recovery by not approving gradual increases over the years and because of non-action, the increase in November was expected to be 25%, which was a major hit to the public. Vice Mayor Dixon also commented on the City's utilities and expressed concern that a fund had not been put together to cover the infrastructure costs for the City's aging water and sewer systems so that now the fund had to begin and the public would have to take a more substantial hit. Vice Mayor Dixon said the chart on attachment 1 (Cost Recovery and General Fund subsidy) caught her eye because it showed \$46 as a General Fund subsidy, which meant the taxpayers were picking up the difference. Vice Mayor Dixon further stated that if there was an issue with the \$12, a compromise might be going for a \$6 increase with a 12-month waiting period to come back and readdress an additional \$6.

Councilmember Polanski, referring to the \$145 per unit, inquired if it was based on a number of things (salary, time, equipment, overhead, etc.). Ms. Joki responded it was based on all those things, and the calculation had been provided by the Finance Department. Councilmember Polanski commented that since the fee schedule hadn't been updated in eight years, she thought it was a very minimal rate increase but felt that the fees should be looked at routinely so there isn't a big jump at one time.

Mayor Esteves opened the public hearing and invited comments.

Dr. Beverly Bryant, Associate Director of Local Government Affairs for the Homebuilders Association of Northern California, said they represented approximately 1,000 members in a 15 county region, they understood the concern of cities in terms of cost recovery and trying to raise fees and were also sympathetic because of the recession, but many of their members were small business people so any increase in fees did make an impact. Dr. Bryant further stated she just found out about this last Friday and that surprised and worried her because she also sits on the ad hoc committee for the Building Department and had a meeting this afternoon here at City Hall; she knew the various departments were looking at fee increases but didn't know about it for these particular fees and talked with Patti, who explained what was happening very thoroughly. Dr. Bryant explained that from the perspective of their members, they don't understand why this doesn't all come in one package, she wasn't encouraging the City to raise fees but was encouraging the departments to talk to each other so there was some commonality in terms of looking at the issues and understanding that one set of fees may impact another. As Dr. Bryant's time ran out, she stated don't do it now but if you have to do, follow the idea of doing it in a phased basis.

MOTION to close the public hearing.

M/S: Polanski, Livengood.

Ayes: 5

Councilmember Gomez said he was comfortable with the fees but expressed concern that Milpitas not have the highest fees; he also understood Councilmember Livengood's point about the recession and if this was to be postponed, suggested that it be approved now and a date set for the fees to be implemented at a later date, maybe when the economy picks up.

Vice Mayor Dixon, addressing Dr. Bryant's concerns, commented that when the whole picture is not looked at and fees rise in one area, it obviously has a direct impact; that was not the goal in Milpitas; Milpitas was right out there in the forefront of affordable housing; Milpitas looks at a lot of those fees for affordable housing, which was why Milpitas was in the forefront for waiving associated fees to make sure Milpitas does deliver its fair share of housing and beyond. Vice Mayor Dixon said she did take into account what Councilmember Livengood said, the Council does need to be sensitive, but we are in a crisis mode and we are coming out of it but we do need to evaluate the bigger picture.

MOTION to initiate a \$6 fee to begin with and wait for a 12 month period and have staff come back with another update to look at what other cities are doing and then re-assess the need for another \$6, or more if the need is higher.

M/S: Dixon, Gomez.

Councilmember Polanski suggested that since the City's fiscal year ends in June, it might be appropriate to bring the additional increase back to the Council during the budget cycle - coming back for the new fiscal year instead of a 12-month period. Vice Mayor Dixon said she would be amenable to that. Councilmember Polanski inquired when the fees would have gone into effect if they were approved now. Assistant City Manager Blair King responded many of the fees were annual fees and billed on a calendar year rather than a fiscal year; bills for annual business fees would be going out in November/December for payment commencing in January; the other fees were when services were rendered.

Mayor Esteves said he felt it was a good compromise; while looking at small businesses, residents were also being considered; and commented that while the fees were being raised, Milpitas was still below the average in the area. Mayor Esteves further stated the City had to bite the bullet and impose some fees, thought \$6 was a good compromise and, hopefully, it would have a minimal impact but at the same time it could mean a great impact to the community to finance any other new projects that the City may have.

City Attorney Steve Mattas suggested that if the Council was to move towards the consensus of approving a different dollar amount, staff would recommend that the motion reflect that staff would modify the schedule (attachment to the resolution) and bring it back to the Council with the new fee on the Consent Calendar at the next meeting.

Councilmember Polanski inquired if the motion included the consolidation of the billing. Vice Mayor Dixon responded most definitely because it was cost efficient.

VOTE ON MOTION to approve a \$6 increase now, review an additional increase during the next budget cycle, include consolidation of billing, and direct staff to make the appropriate changes to the resolution and bring the resolution back for the Council's approval at the next meeting:

Ayes: 4                      Noes: 1 (Livengood)

**2.  
CDBG Funding Priorities  
2004-2006**

Principal Housing Planner Felix Reliford reviewed the previous Community Development Block Grant (CEBG) funding priorities and reported staff and the Community Advisory Commission were recommending maintaining the existing priorities for the next two years (2004-2006) with two exceptions: (1) revise the previous priority in the Public Service category for Youth/Teen Services from No. 4 to No. 2 to maintain appropriate future funding for these programs and (2) delete the Crime Prevention priority from the Public Services

category . Mr. Reliford reported the Community Advisory Commission reviewed the funding priorities on October 1, 2003, and approved the two-year funding priorities as presented and directed that it be forwarded to the Council.

Councilmember Livengood said he didn't like the idea of taking crime prevention off the list and inquired what would be the problem of leaving it on the list as number 6. Mr. Reliford responded it would not be a problem; however, if there was an issue of prioritizing dollars, being a lower priority, it may not get funded; also, if it was off the list, there may be other funding and grant sources out there to fund it. Councilmember Livengood said he didn't like the concept of removing it from the list, he didn't mind the shift in priorities as proposed but leaving crime prevention on couldn't do any harm and he thought it would be healthy to leave it there.

Vice Mayor Dixon said he had no problem with this because if there is a critical need, a plea could be made and felt it was important to keep in mind the CAC were volunteers who look to the Council for some sense of where the priorities are at this particular time. Vice Mayor Dixon commented that she knew homeless services was required to be on the list by HUD, but she wanted to emphasize the number 4 category, Child Care, because a pilot program for pre-kindergarten had just been initiated and she was told they would be allowed to present a proposal for this particular issue. Vice Mayor Dixon expressed appreciation to the CAC for their thoughtfulness in reassessing what is happening in the community and for the time the CAC put into this.

Councilmember Polanski commented, as the liaison to the CAC, she was there for the public hearing and discussion; one of the conflicts that comes up is that they want to insure everyone gets a piece of the pie; they really want firmer direction from the Council as to which are the top priorities the Council wants them to look at when the different organizations come in with their requests; they will be holding a workshop to explain the priorities and how they fit into the requirements; the minimum is \$5,000 now and a lot of time sometimes may be \$5,000 isn't enough for some of these programs; and there are a lot of worthwhile causes, which was one of the reasons crime prevention came off the list. Councilmember Polanski thanked the CAC for once again doing an excellent job.

Mayor Esteves opened the public hearing and invited comments. There were no comments.

MOTION to close the public hearing.

M/S: Livengood, Dixon.

Ayes: 5

MOTION to approve the CDBG Two-Year (2004-2006) Funding Priorities as recommended by staff and the Community Advisory Commission as follows:

Public Services

1. Senior Services
2. Youth/Teen Services
3. Homeless Services/Sheltering
4. Child Care
5. Battered Women Services/Sheltering

Non-Public Services

1. Home Repair/Rehabilitation
2. Affordable Housing
3. Rental/Apartment Rehabilitation

M/S: Polanski, Dixon.

Ayes: 3

Noes: 2 (Gomez, Livengood)

**JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA1.  
CALL TO ORDER**

Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:07 p.m.

**RA2.  
ROLL CALL**

Present were Mayor Esteves, Vice Mayor Dixon, and Agency/Councilmembers Gomez, Livengood, and Polanski.

**RA3.  
MINUTES**

MOTION to approve the Redevelopment Agency minutes of October 7, 2003, including joint meeting with the City Council, as submitted.

M/S: Dixon, Gomez.

Ayes: 5

**RA4.  
AGENDA**

MOTION to approve the agenda and Consent Calendar as submitted.

M/S: Dixon, Polanski.

Ayes: 5

**\*RA5.  
CIVIC CENTER UPDATE**

Approved change order and purchase orders included in the summary sheet and noted receipt and filed progress report on project closeout and 4<sup>th</sup> floor improvements.

**RA6.  
ADJOURNMENT**

There being no further Redevelopment Agency business, Mayor Esteves adjourned the Redevelopment Agency meeting at 8:08 p.m.

**JOINT REDEVELOPMENT AGENCY, CITY COUNCIL, AND FINANCING AUTHORITY MEETING**

**FA1.  
CALL TO ORDER**

Mayor Esteves called to order the joint Financing Authority, Redevelopment Agency, and City Council meeting at 8:08 p.m.

**FA2.  
ROLL**

Present were Mayor/Chair Esteves, Vice Mayor/Vice Chair Dixon, and Agency/Council/Financing Authority Members Gomez, Livengood, and Polanski.

**FA3.  
AGENDA**

MOTION to approve the agenda as submitted.

M/S: Dixon, Polanski.

Ayes: 5

**FA4.  
SERIES 2003 TAX  
ALLOCATION BONDS**

City Manager Thomas Wilson introduced the following consultants, who were present in the audience: Alex Poplastic of Lamont Financial Services, David Oster, Bond Counsel with Jones Hall, and Scott Sollers with Stone and Youngberg..

Assistant City Manager Blair King summarized the 2003 Tax Allocation Bond offering reporting that the bonds had received an 'A' rating from Standard and Poor's, an 'A' from Fitch rating services, and the City also received a 'AA' credit rating from Standard & Poor's. Mr. King reviewed the purpose for the bond offering to refinance 1997 and 2000 bonds, to provide funding for the Elmwood purchase initial payments, to fund Library and Senior Center development and construction, and for the Midtown infrastructure projects. Mr. King reported that the total amounted to \$195 million, including approximately \$4.26 for the cost of issuance, and \$3.7 million for additional projects. Mr. King pointed out that the resolution before the Financing Authority included a not-to-exceed amount of \$200,000,000 in order to provide cushion.

Scott Sollers, Stone & Youngberg, Senior Underwriters, commented that they were hired six months ago with a very aggressive schedule and the goal of being before the Council tonight for approval; staff worked very hard to get the financial package put together and presented to the insurers and raters, and Milpitas was in the top 10% of credit ratings for Redevelopment Agencies in the State and far higher rating than the State of California. Mr. Sollers reported three competitive bids were received from insurance companies, and he was pleased to see this schedule did not compromise the results received in the market place. Mr. Sollers explained the timing of the offering commenting that the official statement would be printed tomorrow and on the street Thursday with the bonds expected to be priced next week. Mr. Sollers noted that the State has a large bond amount going on the market next week (\$1.5 billion) and he would like to stay out of their way; if the State delays another week, then the securities would be priced next week. Mr. Sollers presented a synopsis of the schedule explaining there would be a day for retail purchase of the bonds set aside for residents to purchase and provided a phone number for information if anyone was interested. Mr. Sollers



commented that rates were bouncing around quite a bit, and it was expected this transaction would be sold with a true interest cost of around 5%.

Mr. King summarized the recommendation to adopt four resolutions, two by the Agency, one by the Council, and one by the Public Financing Authority authorizing the purchase and sale of Redevelopment Agency Bonds.

MOTION to adopt Resolution No. RA215 of the Redevelopment Agency authorizing the issuance and sales of Tax Allocation Bonds relating to Redevelopment Project Area No. 1 in the maximum principal amount of \$200,000,000 approving related documents, and authorizing official actions.

M/S: Dixon, Polanski.

Ayes: 5

MOTION to adopt Resolution No. RA216 of the Redevelopment Agency declaring intention to allocate private payments for the use of property to be partially financed with proceeds of obligations to be issued by the Agency and partially financed from non-bond proceeds equity and directing certain actions.

M/S: Dixon, Polanski.

Ayes: 5

MOTION to adopt Resolution No. 7353 of the City Council approving the issuance of Tax Allocation Bonds relating to Redevelopment Project Area No. 1 in the maximum principal amount of \$200,000,000.

M/S: Dixon, Polanski.

Ayes: 5

MOTION to adopt Resolution No. FA0008 of the Milpitas Public Financing Authority authorizing the purchase and sale of Milpitas Redevelopment Agency Redevelopment Project Area No. 1 2003 Tax Allocation Bonds upon certain terms and conditions, approving distribution of an official statement relating thereto, and providing for other matters property relating thereto.

M/S: Dixon, Polanski.

Ayes: 5

#### **FA5. ADJOURNMENT**

There being no further Agency and Financing Authority business, Mayor Esteves adjourned the Redevelopment Agency and the Public Financing Authority meetings at 8:38 p.m.

The City Council meeting continued.

#### **REPORTS OF OFFICERS & BOARDS**

##### **3. Planning Commission Appointments/Vacancies**

Mayor Esteves said he placed this item on the agenda because of the lengthy process normally used for appointments to the Planning Commission. Mayor Esteves reported that three members were eligible for reappointment – Dem Nitafan, Alex Galang, and Cliff Williams; Mr. William had decided not to seek reappointment and Mr. Nitafan and Dr. Galang were interested in being reappointed; in addition, Paul Hay had resigned from the Commission; and with that as background, the Mayor was proposing the reappointment of Dem Nitafan and Alex Galang and at the same time establishing a timetable for advertising and accepting applications and interviewing for the two remaining positions.

Councilmember Livengood said he supported the Mayor's recommendation, commenting that he thought keeping both Dem and Alex was important to do in light of the fact the Commission was losing two senior members. Councilmember Livengood also supported the process for filling the vacancies, stating that he was open for interviews on both December 8 and 9.

Mayor Esteves reviewed the proposed schedule to advertise and accept applications through November 24, review the applications on December 2, and interview candidates on December 8 or 9, expressing his preference for December 9.

Councilmember Polanski said she concurred with the Mayor's recommendation and reappointing two of the senior members of the Commission, commenting that to have the potential of losing four for any reason would be a detriment to the City and she knew that both Dr. Galang and Mr. Nitafan have been doing an excellent job. Councilmember Polanski also expressed appreciation for the services of Cliff Williams and Paul Hay. Councilmember Polanski pointed out that the supplemental questionnaire didn't contain any question on the Midtown Specific Plan and that might be an area that should be included since there has been some major progress in that area.

Councilmember Gomez commented that normally he would be supporting the application process but given there are four possible vacancies, he would be supporting the Mayor's recommendation; he felt both Dr. Galang and Mr. Nitafan have been doing an excellent job; and while he had a concern that the public have an opportunity to apply for vacancies, with two vacancies, he would be supporting the recommendation.

Vice Mayor Dixon commented on the loss of seasoned members Paul Hay and Cliff Williams, who also were on the subcommittee working with the Midtown for four years, and said it was important to maintain consistency on the Planning Commission with the important projects that will be coming before the Commission.

MOTION to reappoint Dem Nitafan and Alex Galang to three-year terms on the Planning Commission expiring December 2006 and approve the process for filling the two vacancies on the Planning Commission (created by Paul Hay and Cliff Williams).

M/S: Dixon, Polanski.

Ayes: 5

Mayor Esteves asked if there was interest in including a question on the Midtown Plan. Vice Mayor Dixon commented that she thought anyone coming into the process would find out on their own about the Midtown. Councilmember Polanski said the Council could ask questions about the Midtown Plan at the interviews.

Mayor Esteves congratulated Mr. Nitafan and Dr. Galang, who were present in the audience.

Dem Nitafan thanked the Mayor and Council for reappointing him for another three years, expressed appreciation to staff for their hard work, and said it had been a privilege for him to serve on the Commission for the past seven years, and he was ready to serve another term.

Alex Galang commented that Dem was the senior member and he was the junior member of the Commission and thanked the Mayor and Council for his reappointment to a second term on the Commission.

#### **4. Capital Improvement Program Progress**

Mayor Esteves said he had asked to have this progress report on the agenda and he was also asking the Council to consider establishing a Capital Improvement Program Oversight Subcommittee. Mayor Esteves volunteered to be one of the members of the subcommittee and requested Councilmember Polanski join him on the subcommittee.

City Engineer Mike McNeely presented the first quarter progress report on the Capital Improvement Program for 2003-2004 reporting that this year the City undertook the largest CIP Program ever, a total of 92 projects; monthly CIP reports with expanded schedules were being provided as a tracking mechanism; the program emphasized a "Project Team" approach and emphasized a master construction schedule. Mr. Neely further reported that of the 92 projects, 13 were in construction, 52 were in design, 12 were in post construction, and there were 15 miscellaneous projects. Mr. McNeely reviewed first quarter activities including construction projects completed and highlighted high priority projects (interim Senior Center,

Civic Center, park playground equipment upgrades, hillside water improvements, and the Manor pump station).

Mark Rogge presented an update on the interim Senior Center project and the City Hall third and fourth floor improvements. Mr. McNeely reviewed the playground equipment upgrade projects as Dixon Landing, Foothill, Hall, and Pinewood Parks, the hillside water system project, and the Manor pump station project. Mr. McNeely highlighted current high priority projects under design (Library pre-design and mapping, Main Sewer pump station, Main Street Streetscape Plan, Selwyn Park, the Sports Center, and Singley Phase III). Assistant City Engineer Greg Armendariz reviewed the Library project and the Main Sewer pump station project. Mr. Rogge reviewed the Main Street Streetscape Plan, Selwyn Park, and the Milpitas Sports Center project. Mr. McNeely reviewed the Singley area street rehabilitation project.

Mayor Esteves thanked staff for this first-time progress report and inquired if the program was ahead of schedule or was more being spent. Mr. McNeely responded generally, some of the projects were ahead. Mayor Esteves suggested that next time one of the slides could show the status of the projects with respect to budget and time.

Councilmember Polanski thanked the Mayor for putting this on the agenda, and said she would be happy to serve on an oversight subcommittee.

Mayor Esteves commented that for projects where there already is a subcommittee, such as the Library, maybe a one-liner report could be provided and the focus be more on the non-subcommittee projects.

Vice Mayor Dixon commented it was all about communication; along with the bad news, there was a lot of good news; she knew all that was heard tonight but the public doesn't and so keep it up.

MOTION to note receipt and file report on CIP status and appoint a Capital Improvement Program Oversight Subcommittee comprised of Mayor Esteves and Councilmember Polanski.

M/S: Esteves, Polanski.

Ayes: 5

**6.  
VTA Board  
Restructuring Proposal**

Senior Analyst Cindy Maxwell briefly reported that in May the Council proposed that the VTA Board of Directors be reorganized to provide for better representation of all Santa Clara County cities; since that time there had been a lot of discussion; the VTA Board created an ad hoc subcommittee that will be meeting in a few weeks; the VTA Policy Advisory Committee had a lengthy discussion on the matter earlier this month and continued it for more discussion in November; several cities have similarly indicated their support in writing of the Milpitas proposal; and the City of Sunnyvale opposed the Milpitas proposal but encouraged looking into alternatives. Ms. Maxwell reviewed the recommendation from the Transportation Subcommittee for direct district elections as a backup option to the original city proposal.

Councilmember Livengood said the reason he removed this item from the Consent Calendar was he supported the proposal but not dividing up the County into districts for elections, which could be detrimental to the City of Milpitas; the reason he didn't like district elections was it counter acts what we are trying to do, which was to get representation for Milpitas 100% of the time; and encouraged some other alternative be looked at. Councilmember Livengood further stated district elections could mean non-representation for Milpitas for decades and was a step away from the original intent to get representation for Milpitas 100% of the time.

Councilmember Gomez said he would like to see some impartial report from staff because he didn't have enough data to endorse district elections.

Councilmember Polanski said she echoed the comments, she thought the Council was going in the right direction to try to get representation on the VTA Board, commended Vice Mayor Dixon for working very hard to accomplish that and for attending and taking the brunt of something supported by the Council that we do want full representation. Councilmember Polanski expressed concern that district elections a lot of times can become very political, she would be very careful about district elections, and the only way she could support them would be if Milpitas was its own district.

Vice Mayor Dixon said this came out of discussions at the subcommittee level from staff throwing all kinds of ideas on the table because there wasn't a back up plan to the original request to have individual city representation; since then, she had talked to some of her colleagues and just today had a conversation with former Councilmember Lawson, who put in an incredible amount of time on behalf of the City of Milpitas, he understood the situation and what she was going through Vice Mayor Dixon said she had come to the conclusion that district representatives would probably not be in the best interest for the City of Milpitas for some of the reasons brought up tonight; if Milpitas was with San Jose, she worried about the level of representation; she would know more on November 6 when she would meet with the ad hoc committee; since the initial request, a lot of cities have come up to the plate; and she had no problem with the Council's direction to eliminate the discussion as a backup plan and continuing on the path we are.

Mayor Esteves said he didn't see any number of districts in the proposal and asked if it could be possible Milpitas could be a major member of a district. Vice Mayor Dixon commented that San Jose, under the guidance of the current Mayor, has the majority and would have the power to decide what they want to do and, at this point, it would be a little risky.

Councilmember Livengood commented that he thought the approach Milpitas was taking was very positive, things have changed since the original composition was put together, Milpitas was now the fifth largest city in the County, and clearly having representation once every two out of six years wasn't enough.

MOTION to note receipt and file and continue with the current Council policy.

M/S: Livengood, Polanski.

Ayes: 5

## UNFINISHED BUSINESS

### 7. Art in Your Park Hillcrest Park

Assistant Civil Engineer Elizabeth Racca-Johnson, along with Julie Cherry, Milpitas Alliance for the Arts,, presented the recommended location for the Art in Your Park project for Hillcrest Park. Ms. Racca-Johnson welcomed Julie Cherry and Hillcrest Neighborhood residents, Jim and Elena Lawson, who were present in the audience.

Ms. Johnson explained the steps taken to arrive at the recommended location at Hillcrest Park that included approval from the Arts Commission, the City Council, and the Parks, Recreation, and Cultural Resources Commission, described the proposed location near the pathway close to the playground, and reported that a story pole representing the height of the proposed artwork had been installed and placed at the proposed site to provide the neighborhood a chance to take a look at it and get a feel for it. Ms. Racca-Johnson presented pictures showing the artwork and its location; on October 11, 2003, the neighbors were invited to take part in a tile workshop where they created their own tiles to represent their thoughts and feelings of the neighborhood; and there were approximately 100 participants.

Julie Cherry reported the story poles were a great idea to get the community/neighborhood's input; the first story pole location was found to be unacceptable to the neighborhood residents and it was moved to its current location where neighborhood residents agreed it would work; the process worked out well; and Ms. Cherry thanked everyone for their support and help with the project.

Mayor Esteves recognized former Councilmember Jim Lawson and Elena Lawson and thanked them for providing the use of their home for many meetings.

Councilmember Polanski congratulated staff and the Milpitas Alliance for the Arts; commended staff and the Milpitas Alliance for the Arts for collaborating to put up signs that identified this as an Art in Your Park project and including a number to call; felt it was a great addition for communication; and agreed that the second location was a better spot.

Vice Mayor Dixon said she thought that having the City do the communication with the neighbors worked well.

MOTION to affirm the location for the "Hand-to-Hand Around Your Park" art structure in Hillcrest Park.

M/S: Dixon, Gomez.

Ayes: 5

**8.  
FY 2002-2003  
Write-Offs**

Finance Director Emma Karlen reported that at the August 5, 2003, meeting, staff submitted the FY2002-2003 accounts receivable write-off list for the Council's approval; the Council directed staff to provide an analysis of the list by category; a copy of the revised accounts receivable write-off list organized by category had been provided as an attachment; in staff's memo, staff provided a summary of the various options that the City could pursue for delinquent accounts, as researched by the City Attorney; and the memo also addressed the various steps that staff had taken to date to improve the collection procedures.

Mayor Esteves inquired if the Civil Action was the same thing as Civil Assessment. Ms. Karlen stated it was court action. Mayor Esteves inquired if the cost of court litigation was more than the amount to be collected. Ms. Karlen explained that was the reason the \$500 amount was being established. City Attorney Mattas commented that for those items that could be handled in Small Claims Court, the City Attorney's office would train Finance staff to be able to fill out the documents and process them.

Councilmember Polanski, referring to Small Claims Court and the fact that staffing was tight, inquired how it might affect the workload in the Finance Department. Ms. Karlen explained that currently the Finance Department had one dedicated staff processing the Accounts Receivables; in order to pursue in Small Claims Court, that staff member would be sent to the courts to file the paperwork. Councilmember Polanski inquired if staff had weighed the pros and cons of going to court for less than \$500. Ms. Karlen responded staff would pursue all other available avenues prior to using the court system. Councilmember Polanski said she thought requiring a deposit was an excellent way to ensure that some of the monies could be recouped.

Councilmember Livengood inquired as to how often staff has taken people to Small Claims Court. Ms. Karlen responded that to date, no one had been taken to Small Claims Court. Councilmember Livengood, addressing the Accounts Receivable write off for almost \$100,000, inquired what Standard Mem's, Inc. was. Ms. Karlen explained it was a manufacturer that had filed for bankruptcy; the amount was for two cycles (4 months) at approximately \$50,000 a cycle; and staff had negotiated with the manufacturer for payment prior to shutting off the water. Councilmember Livengood said he felt the City was too easy on overdue accounts and inquired if any type of fee recovery could be obtained in a Small Claims action. Mr. Mattas said it was very modest filing fee that could be recovered (\$50). Councilmember Livengood said he would like to see some type of statement that the City would not allow big users to fall two cycles behind in their utility billing payments.

Mayor Esteves inquired if going to Small Claims Court would affect credit ratings. Ms. Karlen stated she believed it would.

Ms. Karlen said one of the actions staff was requesting was for the Council to direct staff to adopt or amend the ordinance to collect unpaid false alarm or fire inspection fees through

either using abatement lien or special assessment on the property. City Attorney Mattas said he recommended the ordinance amendments and staff was looking for direction from the Council to bring those back.

Vice Mayor Dixon said she agreed and commented on residents who don't pay their water bills and are given leniency, inquired why the City's water meter readers cut back the vegetation around the water meter covers without charging the resident, and felt there should be a dollar amount added for that purpose (i.e., penalty on water bill).

MOTION to:

1. Approve the recommended FY 2002-2003 accounts receivable write offs while still pursuing other available collection options.
2. File a civil action in the appropriate court only if the accounts receivable is \$500 or more.
3. Maintain effective communication with the departments providing the services so that timely actions could be taken such as revoking permits, or canceling enrollment from classes etc.
4. Allow staff to bring back recommendation on increasing the initial deposit amount for private job account.
5. Assign the accounts receivable of \$500 or under to collection agency after Finance Department has exhausted other available options.
6. Direct staff to prepare an ordinance to establish procedures to collect abatement and related administrative costs for unpaid false alarm and fire inspection fee by a nuisance abatement lien.
7. Direct staff to prepare an ordinance to establish procedures to collect abatement and related administrative costs for unpaid false alarm and fire inspection fees through special assessment on the subject property.

M/S: Dixon, Polanski.

Ayes: 5

**9.  
Fire Department Fees  
(Ola Hassan)**

Fire Marshal Patti Joki reported as requested at the October 7, 2003, Council meeting, staff prepared a report on the fees owed by Mr. Ola Hassan to the Fire Department and copies were provided to the Council. Ms. Joki further reported that Mr. Hassan paid the remaining \$3,500 last Friday and had met all the Fire Department conditions.

MOTION to note receipt and file.

M/S: Gomez, Livengood.

Ayes: 5

**NEW BUSINESS**

**10.  
Supplemental Budget  
Appropriations  
(Three Positions)**

City Manager Wilson reported this item was to consider approval of supplemental budget appropriations for three positions recommended by staff to be filled, a Utility Equipment Maintenance position, a Vehicle Maintenance position, and a Senior Planner position.

Councilmember Gomez removed this item from the Consent Calendar and said he would like to hear the justification for the Senior Planner position as he understood the other two.

City Manager Wilson explained the reasoning behind the Senior Planner position was an increase in planning work focused on the Midtown Specific Plan but not primarily; the department was two full positions understaffed, and two other employees were on extended leaves due to health conditions. Mr. Wilson said staff also believed we are seeing the recovery of the planning and development community in Milpitas, which was good, and the Senior Planner would provide needed expertise we really don't have.

Councilmember Gomez said it was his understanding that the leaves were temporary and inquired what would happen when the two individuals came back. Mr. Wilson responded there were no Senior Planner positions at all and the absences were only a small rationale with

the prevailing rationale being the increase in planning activity and not having a senior staff position in the department.

Councilmember Gomez asked what were the positions taking leave. Acting Planning Director Tambri Heyden responded both positions were Assistant Planners. Councilmember Gomez inquired what positions were left in the department, not including the two on leave. Ms. Heyden responded a Junior Planner, an Assistant Planner, and an Intern. Councilmember Gomez asked when they come back, what would be the staffing level, assuming this position was approved. Ms. Heyden responded a Senior Planner, two Associate Planner vacancies, two Assistant Planners, one temporary Junior Planner, one Intern, a Planning Manager, and the Planning Director.

Councilmember Gomez asked if the approval was for permanent positions. City Manager Wilson responded that was the request. Councilmember Gomez commented that performance indicators were important to him, commented on the performance indicators listed in last year's adopted budget, and inquired what was he missing here. City Manager Wilson responded that the numbers really didn't relate to the significance of the projects that commanded the expertise of a Senior Planner, staff has tried to get along without some senior expertise, the Planning Director position still wasn't being staff as a permanent position so this unit has accomplished a tremendous amount of savings.

Councilmember Livengood said his concern with this item was not based on whether there was a need for these positions; he was worried about cherry-picking the hiring freeze; other city departments had come to him when they saw this expressing concern that either there is a hiring freeze or there is not. Councilmember Livengood further stated he had received questions from employees about why some positions can be filled and not others; some people were not happy about this; they have the same issues about staffing levels and the ability to get things done, and he was worried about the problems it could create. Councilmember Livengood said he would support this item because it made sense, particularly in the planning arena because there were big projects requiring a certain amount of expertise, but he was worried about the whole issue of a hiring freeze and being somewhat selective about which positions are being filled and which are not.

City Manager Wilson commented that the hiring freeze was initiated by his office and brought to the Council for approval in November/December 2001; at the time, the freeze was not presented nor did he recall the Council adopting it as an all or nothing but rather a request that we carefully analyze all positions and upon need, bring certain positions to the Council for consideration and that had been done. Mr. Wilson said he thought there was an incredible dynamic tension in this organization because of the hiring freeze and he has had employees make the same comments to him as had been made to Councilmember Livengood; he also had been able to respond to every department and director or division leader, with the exception of one division, with bringing back to Council positions for hire, he knew it was stressful but he believed he and Blair had kept their doors open and have had weekly conversations with all the directors and managers and would continue to try to have them evaluated on an individual basis and bring them back to the Council for review.

Vice Mayor Dixon commented that instead of having unknown/unnamed people cherry-picking a couple of Councilmembers to complain to, it would be more constructive if the concerns were brought to the entire Council. Vice Mayor Dixon said as far as the Planning Department, it was no secret it was critical and paramount that we have a top notch Planning Department and Building Department and even with this appointment, it will still run a few positions short.

Mayor Esteves said he assumed the amounts shown included benefits. City Manager Wilson responded they did include all costs for the remainder of the fiscal year. Mayor Esteves said he was glad that the Council was looking very closely at this because they had to be prudent; he didn't have any objections on the proposed positions but suggested, as Councilmember

Gomez had referred to, that there should be some type of scorecard or measurement of performance and cost to justify that the department is doing more and costing less.

MOTION to:

1. Appropriate \$46,579 from Utility fund reserves to provide for a six-month budget for an approved Equipment Maintenance Worker III;
2. Appropriate \$47,110 from the Equipment Fund reserves to provide for a seven-month budget for an approved Vehicle Maintenance Worker II; and
3. Appropriate \$65,279 from the Unappropriated General Fund reserves to provide for a six-month budget for an approved Senior Planner.

M/S: Polanski, Dixon.

Ayes: 4

Noes: 1 (Gomez)

## **BIDS & CONTRACTS**

### **16. CAD System (TriTech Software Systems)**

Information Services Director Bill Marion briefly reviewed the proposal to approve an agreement with TriTech Software Systems for the installation of a computer aided dispatch (CAD) system. Mr. Marion explained that four vendors participated in a series of on-site system demonstrations; two vendors were eliminated and the remaining two vendors continued with on-site visits to four jurisdictions in California; and TriTech was selected and would provide flexibility and features necessary for dispatch center operations as well as a mobile product that will provide field units access to incident information, maps, and external inquiry systems. Mr. Marion noted that TriTech CAD was currently installed in over 100 jurisdictions.

City Manager Wilson congratulated Mr. Marion, the IS staff, and the Public Safety staff for working out a truly integrated system for police and fire.

MOTION to authorize the City Manager to execute an agreement with TriTech Software Systems for the installation of a Computer Aided Dispatch System in an amount not to exceed \$982,291, subject to approval as to form by the City Attorney; and authorize the City Manager to execute support and maintenance agreements with TriTech Software Systems, subject to approval as to form by the City Attorney.

M/S: Livengood, Dixon.

Ayes: 5

## **ADJOURNMENT**

There being no further Council business, Mayor Esteves adjourned the City Council meeting at 10:14 p.m.

Gail Blalock, CMC  
City Clerk